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OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

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Honorable George H. Sheppard
Comptroller of Public Accounts
Austin, Texas

Dear Sir:

Supplemental Opinion No. O-452-A
Re: Whether an independent school district may contract with an attorney to collect delinquent taxes for 15% thereof as his fees.

On March 9, 1939, you requested our opinion as to whether an independent school district may legally contract to employ an attorney to collect delinquent taxes paying him 15% of the taxes collected as his fees. On March 13, 1939, we addressed to you our opinion No. O-452 answering your question in the negative. In expressing that view we relied upon the case of City of Houston v. Dabney, 120 S. W. (2) 437, opinion by the Commission of Appeals in which it was held that a city cannot make such a contract with an attorney and pay him such a percentage out of the amount collected. It was our view that under Article 7343, Revised Civil Statutes, the situations of a city and an independent school district were so similar that the Houston v. Dabney case would control the same question with reference to an independent school district. In the case of Bell v. Mansfield Independent School District, 124 S. W. (2) 866, the Court of Civil Appeals of Fort Worth, citing the case of Houston v. Dabney, supra, held the same as our opinion of March 13, 1939. The opinion of the Fort Worth Court of Civil Appeals was handed down on January 20, 1939, and rehearing was denied on February 17, 1939. An application for writ of error was filed in that case which was at first refused by the Supreme Court but upon a motion for rehearing a writ of error was granted and on June 21, 1939, the Supreme Court reversed the holding of the Court of Civil Appeals in

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the Bell v. Mansfield Independent School District case, holding that independent school districts may lawfully enter into such contracts and pay a compensation not to exceed 15% of the amount collected to the contracting attorney. This, of course, necessitates the reversal of our opinion dated March 13, 1939, upon this question and we now overrule that opinion and answer the question submitted in your letter of March 9, 1939, in the affirmative.

We would direct your attention to the fact that in its opinion the Supreme Court expresses the view that it is not necessary for such contracts to be submitted to the Comptroller and the Attorney General for their approval.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Glenn R. Lewis*
Glenn R. Lewis
Assistant



GRL:FL

APPROVED JUN 28, 1939

Gerard B. Mann
ATTORNEY GENERAL OF TEXAS

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